

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7631 of 1997

AND

SPECIAL CIVIL APPLICATION No 7632 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH Sd/-

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
  2. To be referred to the Reporter or not?
  3. Whether Their Lordships wish to see the fair copy of the judgement?
  4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
  5. Whether it is to be circulated to the Civil Judge?

1 to 5 - No.

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BARKATKHAN N PATHAN

Versus

COLLECTOR BHAVNAGAR

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Appearance:

MR MB FAROOQUI for Petitioner  
GOVERNMENT PLEADER for Respondent No. 1  
MR YM THAKKAR for Respondent No. 2

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CORAM : MR.JUSTICE M.S.SHAH

Date of decision: 16/06/98

COMMON ORAL JUDGEMENT

The petitioners in these two petitions under Article 226 of the Constitution are challenging the action of the Collector, Bhavnagar granting respondent

No. 2-Arjanbhai Babubhai Parmar allotment of land known as "Ganga Jaliya Talav" in Bhavnagar for arranging balmelas (children fair) during Diwali festival in September to November, 1997.

2. When these petitions have reached final hearing today, the learned counsel for the respondents have submitted that since the allotment of the land in question was given to respondent No. 2 only for a period of 46 days from 27.9.1997 to 11.11.1997 and since that period is already over, the petitions have become infructuous and, therefore, deserve to be dismissed.

3. However, Mr Farooqui, learned counsel for the petitioners has strenuously urged that allotment of the land in question i.e. Ganga Jaliya Talav in Bhavnagar city is a recurring phenomena and there is a lot of demand for getting the aforesaid land on lease or license basis, but respondent No. 1 has not framed any norms for granting such land on lease or license basis and, therefore, the citizens like the petitioners are not in a position to get the land on lease or license basis, but persons like respondent No. 2 manage to get such allotment without the other eligible citizens getting any opportunity. The learned counsel for the petitioners states that the petitioners are running trust and for raising funds for the schools, the petitioners were interested in arranging fun-fairs/children's fairs, but respondent No. 2 who is only a driver in the Collector Office knowing the demand for the land in question during Diwali festival and summer vacation goes on booking the land a year in advance and then may be merely acting as a front for other persons organizing different events.

4. Apropos the aforesaid submission, Mr Joshi, learned AGP has made reference to the Government (Revenue Department) Resolution dated 28.3.1989 and has contended that the said Government Resolution already contains the norms for allotment or grant of land on license basis and that the rates of license fees are also stipulated in the said Resolution.

The said Resolution provides that the applicants who have submitted their applications should be given allotment on the basis of "First come first served" if the applicants produce the certificate of their financial solvency and also satisfy the authority about their experience in organizing such events. It is submitted by the learned AGP that on the basis of the aforesaid instructions contained in the said Government Resolution, the Deputy Collector, Bhavnagar and City Survey

Superintendent, Bhavnagar had submitted recommendation in favour of respondent No. 2 who had submitted his application on 3.10.1996 for getting allotment of the land in question for the period from 27.9.1997 to 11.11.1997.

5. Mr Thakkar for respondent No. 2 also supports the arguments of the learned AGP and contends that it is open to a citizen to apply for allotment of the land well in advance and even before a year prior to the period during which he wants to get allotment of the land on lease or license basis and that respondent No. 1 has not committed any violation of any of the instructions contained in the Government Resolution.

6. Having heard the learned counsel for the parties, it appears to the Court that while the challenge to the specific allotment of land for the period from 27.9.1997 to 11.11.1997 has become infructuous by efflux of time, some observations are required to be made in order to ensure that the citizens of Bhavnagar get a fair opportunity for getting allotment of the land in question and, therefore, respondent No. 1 - Collector, Bhavnagar should frame some guidelines. There is some substance in the grievance being made by Mr Farooqui, learned counsel for the petitioner, that if a particular person like respondent No. 2 books the land for as many as 46 days and that too, a year in advance, other citizens may not be in a position to get any chance to get such land on lease or license basis even for a short period. The Collector shall, therefore, consider as to whether any time limit should be stipulated for making applications for getting such land on license basis. While prescribing the time limit, the Collector would, of course, bear in mind that some time would be required by the organizers for arranging events like fairs and that although there may not be any need to give public notice for inviting such applications every week or every month, such guidelines should be prominently published in the newspapers having wide circulation in Bhavnagar city so that the people at large know about such guidelines and whenever any citizen has any occasion to make inquiries, such guidelines are readily available with the office of the Collector. The Collector shall also consider maintenance of a register for recording the receipt of such applications and then recording final decision upon expeditious consideration of such applications so that any person who goes to make inquiries does get definite information as to whether the land in question would be available on particular day/s, just as the Municipal Corporation maintains records for the bookings of

Municipal halls and auditoriums.

7. It is hoped that the aforesaid exercise will be carried out within one month from the date of receipt of this order so that there is sufficient time for giving wide publicity to the guidelines and for consideration of applications for allotment of the land/s during the next Diwali festival.

8. Subject to the aforesaid observations, the petitions are accordingly disposed of. Rule is discharged in each of these petitions.

Sd/-

June 16, 1998 (M.S. Shah, J.)